

**From:** Roger Allan/DC/USEPA/US  
**Sent:** 3/6/2012 9:25:40 AM

**To:** Henry Barnett/DC/USEPA/US@EPA; Matthew Morrison/DC/USEPA/US@EPA; Becky Barnes/DC/USEPA/US@EPA; Beth Behrens/NEIC/USEPA/US@EPA; CID ASAC ALL; CID SAC ALL; Doug Parker/DC/USEPA/US@EPA; Gary Guerra/DC/USEPA/US@EPA; Hamilton Humes/DC/USEPA/US@EPA; James Beaty/DC/USEPA/US@EPA; Asad Majeed/DC/USEPA/US@EPA; Jennifer Youngberg/DC/USEPA/US@EPA; Jon Jacobs/DC/USEPA/US@EPA; Jonathan Cole/DC/USEPA/US@EPA; Julie Lastra/DC/USEPA/US@EPA; Leonard Borges/DC/USEPA/US@EPA; Lisa Desiderio/DC/USEPA/US@EPA; Mark Badalamente/DC/USEPA/US@EPA; Michael Burnett/CID/R7/USEPA/US@EPA; Mike Fisher/DC/USEPA/US@EPA; Patricia Straw/DC/USEPA/US@EPA; Peter Rosenberg/DC/USEPA/US@EPA; Roger Allan/DC/USEPA/US@EPA; Steven Drielak/DC/USEPA/US@EPA; Tom Norris/NEIC/USEPA/US@EPA; coleman.anita@epa.gov; Andrew Lauterback/R1/USEPA/US@EPA; Elizabeth.Janes@usdoj.gov; Brian McKeown/NEIC/USEPA/US@EPA; Ted Owens/DC/USEPA/US@EPA; Carol Rushin/NEIC/USEPA/US@EPA; Christine Guitar/DC/USEPA/US@EPA

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**BP spill settlement clears way for comeback** (Cincinnati Enquirer)

**Outlet Full Name:** Cincinnati Enquirer - Online  
**News Text:** 5:03 AM, Mar. 5, 2012 |

NEW YORK (WTW) — BP's multibillion-dollar settlement with people and businesses harmed by its 2010 oil spill removes some uncertainty about the potential financial damages it faces. It also may help the company restore its all-important relationship with the federal government.

Although the oil company still has a few major legal and financial hurdles to overcome nearly two years after the spill in the Gulf of Mexico, the tentative settlement with plaintiff's lawyers sends important signals to investors, Gulf Coast states and federal regulators.

Where once it seemed conceivable that BP's spill-related costs could reach \$200 billion, lawyers and industry analysts now say that figure will likely be less than a quarter that amount. If the class-action lawsuit by victims had gone to trial, BP could have faced much higher costs along with the embarrassment of having to publicly rehash the mistakes that led to the spill.

The settlement, which BP estimates will cost \$7.8 billion, also shows its willingness to pay a huge sum to resolve issues related to the spill. That may improve its standing with the federal government, which controls access to oil reserves that are critically important to BP's future.

"The only trial I thought we would see in this case is the one that just went away," said David Uhlmann, a University of Michigan law professor who once headed the Justice Department's environmental crimes section.

A blowout of the Macondo well in April 2010 destroyed a drilling rig called the Deepwater Horizon. That killed 11 workers, spilled an estimated 200 million gallons of oil and disrupted thousands of Gulf Coast lives and businesses. The spill soiled sensitive tidal estuaries and beaches, killed wildlife and closed vast areas of the Gulf to commercial fishing.

The settlement announced Friday would apply to tens of thousands of victims along the Gulf Coast, including fishermen who lost work and cleanup workers who got sick. It still needs approval of a federal court in New Orleans.

BP expects to pay the victims using the remainder of a trust fund that the company had established to pay these types of claims. The trust has \$9.5 billion in assets left out of an initial \$20 billion. Whatever remains would return to BP.

Friday's deal does not resolve lawsuits with federal, state and local governments or address environmental damage. Those other claims could total up to \$25 billion.

BP, which is based in London, says it doesn't expect to have to add to the \$37.2 billion it has set aside to fund the trust and pay for other spill costs. Although some analysts expect BP to have to pay more eventually, the total would be much less than initially feared.

The settlement does not fully resolve all claims by victims, as individuals and businesses could reject it and choose to bring separate cases. It also doesn't put a final cost on them. The settlement creates a new fund that will pay all claims, with no cap on the total amount. It could ultimately add up to more or less than what BP estimates.

Some Gulf Coast residents dissatisfied with the claims process under the trust fund are hoping the settlement makes it easier to receive compensation.

Clara Gerica, a 59-year-old shrimp vendor at a downtown farmers' market in New Orleans, said she and her husband, a commercial fisherman, had not been compensated even though they filed claims with the fund.

If the new process isn't any better, she said, "I'm going to put up a fight."

Tony Buzbee, a Houston-based attorney who represents people and businesses with roughly 12,000 spill claims, questioned whether the settlement will be more beneficial to his clients than the existing fund.

"There better be a golden nugget in there," Buzbee said. "Otherwise, this smells. It doesn't benefit my clients any."

Still, BP's willingness to agree to a settlement with no cap will help it in future talks with states and the federal government, experts say.

BP is facing Clean Water Act fines of \$5.4 billion to \$21.1 billion, depending on whether BP is judged to have been grossly negligent in the design, construction or operation of the well.

Eric Schaeffer, who investigated oil spills for the Environmental Protection Agency as a former head of civil enforcement, said that a settlement with the government could reduce those charges by half.

Friday's deal with victims could also help BP work with the government in the future as it drills for oil in the federally controlled waters in the Gulf, one of the most important drilling regions in the world for BP. It's especially important for BP because its reputation was already tarnished from other recent environmental disasters, including a Texas City refinery fire in 2005 that killed 15 people and pipeline spills in 2006, 2009 and 2011 in Alaska.

"If the government doesn't have confidence in the company because of their track record, it's going to

look harder for a reason to reject their permit," Schaeffer said.

In the wake of the disaster, BP was forced to cut its dividend, borrow money and begin selling off assets to pay for expenses. So far, it has sold \$21 billion worth of oil fields, refineries and chemical plants on four continents, and it is trying to sell assets worth another \$17 billion.

BP chief executive Tony Hayward was forced to step down in the fall of 2010 after making a series of gaffes related to the spill. BP's attempts to create an environmentally friendly image were crushed, and independent gas station owners with BP-branded stations lost business from upset customers.

The company's share price of \$47.50 is still 21 percent below its \$60.48 close before the spill on April 20, 2010. The well was finally capped on July 15 of that year.

Despite the spill and the legal and financial setbacks that followed, BP remains one of the world's biggest and most profitable companies. It is the fourth-largest investor-owned oil company. BP earned \$27.5 billion in 2011 on revenue of \$376 billion, helped by historically high oil prices that have padded the profits of all oil producers. Its shares have almost doubled from their low of \$27.05 on June 25, 2010, when the well was still spewing oil and a series of efforts to plug the well had failed.

BP CEO Bob Dudley said in a statement that the settlement "represents significant progress toward resolving issues" from the disaster.

At times during the summer of 2010, BP's survival as a company was questioned. Goldman Sachs had estimated the spill costs could reach \$200 billion.

BP took an accounting charge of \$40.9 billion in 2010 to cover such costs. The company has received four payments from partners in the project, including \$4 billion from minority owner Anadarko Petroleum and \$250 million from Cameron International Corp, which made the blowout preventer that failed to prevent the spill. These settlements and other adjustments brought BP's total write-off to \$37.2 billion.

The company has paid out \$28.1 billion in expenses, claims and contributions to the victims' trust fund. That leaves the company with \$9.1 billion to pay fines and other penalties from states, the federal government and others. That would not be enough to cover federal environmental fines if BP is faced to pay the maximum fine of \$4,300 per barrel, or \$21.1 billion.

BP is suing Transocean, which owned the Deepwater Horizon rig and Halliburton, the contractor hired by BP to cement the Macondo well, to help pay for cleanup costs. Phil Weiss, an analyst at Argus Research, does not expect BP to win much, though.

Fadel Gheit, an analyst at Oppenheimer & Co., said that by agreeing to a substantial settlement with individuals and businesses, BP is proving it is willing to pay whatever it needs to try to put the oil spill behind it.

"They have been telling the government: 'We'll do whatever it takes. We're just going to pay and get this over with. We want to be back in business,'" Gheit said.

## **Chesapeake investigation started with angry neighbors** (Energywire)

**Outlet Full Name:** Energywire

**News Text:** NEW MARTINSVILLE, W.Va. -- Ed Wade Jr. looks like more of a threat to a nine-point buck than to a giant natural gas company.

He has a thick, brown mustache, a drawl, a physique like the boilermaker that he is, and a big truck in his yard with a front plate that reads, "If guns are outlawed -- only outlaws will have guns."

But Wade and his neighbors took aim at Chesapeake Energy Corp., the nation's second-largest gas company, and hit their target. They might have inflicted more damage than they expected. Chesapeake disclosed last week that there is a federal criminal investigation of the activities Wade and others brought to light.

Fed up with dangerous truck traffic, toxic fumes and fouled creeks several years ago, Wade and his neighbors, Bill Hughes and Rose Baker, started building a case. They called themselves the "Wetzel County Action Group" and started photographing and filming Chesapeake's shale gas drilling operations that they thought violated regulations and damaged people's property.

"The community's biggest defense is a camera," Wade said as he bounced around the rural Silver Hill section of Wetzel County last year in his truck. "They don't know where I'm going to show up. They don't know who is going to show up where."

Their photos got the attention of U.S. EPA, which sent a team to the area in September 2010. Wade gave them a guided tour of streambeds turned into roads and landslides from well pads that foul creeks.

In the following months, EPA's Region III Office in Philadelphia, considered one of the more aggressive branches of the agency on drilling issues, hit Chesapeake at least eight times under the Clean Water Act for wetland violations.

Uncharacteristically, they were aimed right at the top, addressed to Chesapeake's outspoken chairman and CEO, Aubrey McClendon.

Still, the enforcement action got relatively little attention in the shale gas drilling debate beyond a few stories in the Wheeling, W.Va., newspaper.

But at some point, the federal government took it up a notch. Chesapeake stated last week in a financial filing that it had responded to a subpoena from a federal grand jury in the Northern District of West Virginia, based in Wheeling. Chesapeake's filing said the U.S. Department of Justice is investigating potential criminal violations of the Clean Water Act at three of the company's sites.

"We believe that resolution of the EPA's compliance orders and the DOJ's investigation will each include monetary sanctions exceeding \$100,000, but are unable to estimate the amount of any fines that might be imposed in these matters," Chesapeake reported. The \$100,000 figure is the threshold for reporting potential regulatory actions to shareholders through the Securities and Exchange Commission.

Justice Department representatives in West Virginia and Washington declined to discuss the matter. But a Chesapeake executive stressed that the alleged violations happened at least two years ago.

"We are working with the government to resolve potential violations at three sites in Marshall and Wetzel counties, W.Va.," Michael Kehs, Chesapeake's vice president for strategic affairs and public relations, said in a statement provided in response to questions from EnergyWire. "These actions occurred primarily in 2008 and 2009, and are related to road maintenance and pond construction. Because an investigation is ongoing, it would be inappropriate to offer further public comment at this time."

People on both sides of the issue say some of the things Chesapeake is charged with doing have been common practice in the rural area for years. But the company's critics say there's a big difference between occasionally driving a pickup in a creek and flattening a waterfall for heavy truck traffic. And the criminal investigation indicates someone thinks there's evidence the company knew the activities violated the law. Citizen action

Wade slows his truck as he pulls alongside a staging and support area for shale gas drilling. Pipes and drilling supplies are stacked on hard ground where beaver ponds and wet meadows used to be. Swaying gently just beyond the staging area is a patch of cattails, plants that usually indicate a wetland. And most wetlands are protected by federal law, the Clean Water Act.

The people who live around here, Wade said, would have known better than to fill it, or at least would have feared the consequences for filling in a wetland.

"A local logger has to build a bridge across a creek," he says, "and they tear up creeks."

Fifteen minutes and a few nail-biting switchbacks later, Wade's truck is struggling up a creek that used to

be a road. Before it was a road, it was a waterfall.

The Blake Run falls have long been a favorite place for picnics and a backdrop for wedding photos.

But Chesapeake was planning to build a holding pond up the hill, and wanted access for its trucks. The company sent heavy equipment to crush the waterfall down to a bump in the road.

"See the claw marks?" Wade asks, and spits to the side. "That rock belongs down here."

As he surveys the scene, it's coming up on a year since EPA cited Chesapeake for destroying the waterfall. Gravel has been cleared, and some of the rocks have been put back (today, restoration is complete).

To Wade and his allies, it seemed that Chesapeake was playing by a different set of rules. But they weren't angry just at what Chesapeake was doing. They were angry that the West Virginia Department of Environmental Protection was letting the company get away with it.

State inspectors (who must come from industry) literally stood by and watched, they say, as the company crews and subcontractors broke the rules and ruined their property. Chesapeake and other companies, they say, buried waste on farms, allowed spills to kill trees and built well pads on the scarce flat land available for farming.

"When citizens can't get responsiveness, they call whoever they can," said Hughes, a retired electrician who lives near Wade.

Wade started calling EPA's regional office in Philadelphia -- "Just called the front desk," he said -- and began sending the photos that he and his neighbors were taking.

In September 2010, Wade took some EPA staff members on a tour of the drilling sites in Wetzel County. By November 2010, EPA officials were hitting Chesapeake with "compliance orders" alleging wetland violations.

The EPA tour was documented in emails obtained by EnergyWire through a Freedom of Information Act request. The documents obtained also include a message to EPA officials from a West Virginia University researcher who reported some of the same wetland fills. EPA officials said they could not offer more clarity about how the alleged violations came to their attention.

"EPA was notified of alleged violations through a variety of sources including citizens, West Virginia state officials and also through self-disclosure by Chesapeake," EPA spokeswoman Donna Heron said in an email statement last year.

Huffman, the DEP chief, said in an interview last year that the wetland violations EPA charged Chesapeake with are violations of federal law and out of his agency's jurisdiction. But he said he was surprised when he saw the wetland fills.

"My reaction was, 'I'm flabbergasted that you guys got by with this,'" Huffman said in the interview. He said the Chesapeake officials didn't seem to be aware they might have committed a violation.

But he said the companies and his agency have come a long way since the "pretty crazy" days of 2009 as the full effect of the Marcellus Shale became clear.

"They've made those adjustments," Huffman said. "I don't get push back from these companies."

But Wade and Hughes say companies are still getting away with destructive practices. What improvements there have been, they say, come from embarrassing the companies in the local newspapers, or the threat of action by EPA or other federal agencies.

"We've tried to tell Randy Huffman several times," Hughes said, "either sweep your floor or the feds are gonna sweep it for you."

## **Wisconsin Energy Corp. Accused of Violating Waste Rules Following Lake Contamination** (Daily Environment Report, 03-06-12)

By Michael Bologna

CHICAGO—The Wisconsin Department of Natural Resources has issued a notice of violation of state solid waste regulations against Wisconsin Energy Corp. following the collapse last year of a bluff that sent approximately 22,700 cubic yards of soil, coal ash, and water into Lake Michigan.

DNR faulted Wisconsin Energy for developing a stormwater pond on a coal ash site adjacent to the utility's Oak Creek Power Plant south of Milwaukee. Wisconsin Energy's failure to install and maintain a proper liner contributed to the environmental mishap, DNR said.

Wisconsin Energy is subject to fines of up to \$5,000 per day during the period of violation.

"We have reason to believe that the failure to install a liner in the storm water pond was a significant factor in the bluff collapse of Oct. 31, 2011," Debbie Roszak, DNR's enforcement officer, wrote in a letter to Wisconsin Energy executives.

The notice of violation said that a conditional exemption for building a waste site was issued by DNR. However, the company was required to install a liner where ponds or open channels are constructed over the waste site.

Late last year, Wisconsin Energy was constructing an air quality control system to cut emissions from its coal-burning generating station.

The collapse occurred in the construction area after a period of saturation. Mud and ash slid more than 300 feet down a slope and into Lake Michigan.

The utility spent much of November and December remediating contamination that streamed into the lake (212 DEN A-8, 11/2/11).

DNR's report on the mishap noted that several sources of water played roles in the bluff collapse, but the lack of a liner was a significant factor.

Enforcement Conference March 7

Cathy Schulze, a spokeswoman for Wisconsin Energy, said the company would appear at the enforcement conference, scheduled for March 7, to discuss the DNR's notice of violations. Schulze noted, however, that company engineers working on the construction site did not believe a liner was

necessary to secure the pond.

“We did not feel a liner was needed,” Schulze told Bloomberg BNA. “In excavating the area, we removed ash deposits and replaced it with soil so no liner was required.”

Wisconsin Energy could face additional liabilities from the bluff collapse.

On Nov. 8, 2011, the Sierra Club filed a notice of intent to sue, alleging violations of the Clean Water Act and the Resource Conservation and Recovery Act. The Sierra Club alleged Wisconsin Energy had improperly managed wastes containing toxic pollutants, including arsenic, lead, mercury, selenium, and other substances recognized as harmful to human health and the environment (219 DEN A-8, 11/14/11).

## **Disasters - US EPA heighten s scrutiny over Pa. gas drilling (Fox News)**

Published March  
05, 2012 |  
Associated Press

DIMOCK, Pa. —  
Tugging on rubber  
gloves, a laboratory  
worker kneels before  
a gushing spigot  
behind Kim Grosso's  
house and positions

an empty bottle  
under the clear, cold  
stream. The process  
is repeated dozens  
of times as bottles  
are filled, marked  
and packed into  
coolers.

After extensive  
testing, Grosso and  
dozens of her  
neighbors will know  
this week what may  
be lurking in their  
well water as federal  
regulators  
investigate claims of  
contamination in the  
midst of one of the  
nation's most  
productive natural  
gas fields.

More than three  
years into the gas-  
drilling boom that's  
produced thousands  
of new wells, the  
U.S. Environmental  
Protection Agency  
and the state of  
Pennsylvania are  
tussling over  
regulation of the  
Marcellus Shale, the  
vast underground  
rock formation that  
holds trillions of  
cubic feet of gas.

The state says EPA  
is meddling. EPA  
says it is doing its  
job.

Grosso, who lives  
near a pair of gas  
wells drilled in 2008,  
told federal officials  
her water became  
discolored a few  
months ago, with an  
intermittent foul odor  
and taste. Her dog  
and cats refused to  
drink it. While there's



no indication the problems are related to drilling, she hopes the testing will provide answers.

"If there is something wrong with the water, who is responsible?" she asked. "Who's going to fix it, and what does it do to the value of the property?"

Federal regulators are ramping up their oversight of the Marcellus with dual investigations in the northeastern and southwestern corners of Pennsylvania. EPA is also sampling water around Pennsylvania for its national study of the potential environmental and public health impacts of hydraulic fracturing, or fracking, the technique that blasts a cocktail of sand, water and chemicals deep underground to stimulate oil and gas production in shale formations like the Marcellus. Fracking allows drillers to reach previously inaccessible gas reserves, but it produces huge volumes of polluted wastewater and environmentalists say it can taint groundwater. Energy companies deny it.

The heightened federal scrutiny

rankles the industry and politicians in the state capital, where the administration of pro-drilling Gov. Tom Corbett insists that Pennsylvania regulators are best suited to oversee the gas industry. The complaints echo those in Texas and in Wyoming, where EPA's preliminary finding that fracking chemicals contaminated water supplies is forcefully disputed by state officials and energy executives.

Caught in the middle of the state-federal regulatory dispute are residents who don't know if their water is safe to drink.

EPA is charged by law with protecting and ensuring the safety of the nation's drinking water, but it has largely allowed the states to take the lead on rules and enforcement as energy companies drilled and fracked tens of thousands of new wells in recent years.

In Pennsylvania, that began to change last spring after The Associated Press and other news organizations reported that huge volumes of partially treated wastewater were being discharged into rivers and streams

that supply drinking water. EPA asked the state to boost its monitoring of fracking wastewater from gas wells, and the state declared a voluntary moratorium for drillers that led to significant reductions of Marcellus waste. Yet a loophole in the policy allows operators of many older oil and gas wells to continue discharging significant amounts of wastewater into treatment plants, and thus, into rivers.

The state's top environmental regulator, Michael Krancer, says Pennsylvania doesn't need federal intervention to help it protect the environment. He told Congress last fall that Pennsylvania has taken the lead on regulations for the burgeoning gas industry.

"There's no question that EPA is overstepping," Katherine Gresh, Krancer's spokeswoman, told the AP. "DEP regulates these facilities and always has, and EPA has never before shown this degree of involvement."

The American Petroleum Institute urged the Obama administration last week to rein in the

10 agencies it says are either reviewing, studying or proposing regulation of fracking.

"The fact is that there is a strong state regulatory system in place, and adding potentially redundant and duplicative federal regulation would be unnecessary, costly, and could stifle investment," API Vice President Kyle Isakower said in a statement.

EPA says public health is its key focus and insists it is guided by sound science and the law.

"We have been clear that if we see an immediate threat to public health, we will not hesitate to take steps under the law to protect Americans whose health may be at risk," said Terri White, an EPA spokeswoman in Philadelphia.

The EPA investigations are being conducted amid reports of possibly drilling-related contamination in several Pennsylvania communities.

In recent years, methane migrating from drill sites into private water supplies has forced scores of residents

to stop using their wells and rely on deliveries of fresh water. Some residents complain the state agency has failed to hold drillers to account.

In heavily drilled Washington County, near the West Virginia border, EPA staff are inspecting well pads and natural gas compressor stations for compliance with water- and air-quality laws. In Dimock, a village about 20 miles south of the New York state line, EPA stepped in after a gas driller won the state's permission to halt fresh water deliveries to about a dozen residents whose wells were tainted with methane and, the residents say, heavy metals, organic compounds and drilling chemicals.

Dimock holds the distinction of being Pennsylvania's top gas-producing town, yielding enough gas in six months to supply 400,000 U.S. homes for a year. Some residents contend their water wells were irreversibly contaminated after Houston-based Cabot Oil & Gas Corp. drilled faulty gas wells that leaked methane into the aquifer 7/87/8 — and spilled thousands of

gallons of fracking fluids that residents suspect leached into the groundwater.

Cabot first acknowledged, then denied responsibility for the methane it now contends is naturally occurring. It also asserts that years of sampling data show the water is safe to drink.

The EPA looked at the same test results and arrived at a different conclusion.

The well water samples "led us to conclude that there were health concerns that required action," White said. EPA said its tests showed alarming levels of manganese and cancer-causing arsenic and that Cabot's own tests found minute concentrations of organic compounds and synthetic chemicals, suggesting the influence of gas drilling.

Cabot says its drilling operations had nothing to do with any chemicals that have turned up in the water. It points to a Duke University study last year that found no evidence of contamination from fracking.

Yet the company racks up state

violations at a far higher rate than its competitors in the Marcellus — 248 violations at its wells in Dimock alone since late 2007 — most recently last month, when the company was flagged for improper storage, transport or disposal of residual waste. State regulators levied more than \$1.1 million in fines and penalties against the company between 2008 and 2010. And it is still banned from drilling any new wells in a 9-square-mile area of Dimock.

While EPA agreed last month to deliver water to four homes along Carter Road, the agency said the tests did not justify supplying water to several other residents who had been getting their water from Cabot and who have filed suit against the company.

The plaintiffs still don't trust their wells, instead relying on water from the nearby Montrose municipal supply.

Twice a day, six days a week, Carter Road resident Ray Kemble drives about eight miles to a hydrant in Montrose, fills a 550-gallon tank strapped to the back of a donated truck, and delivers water to

as many as five homes — including his own. Anti-drilling groups are footing the bill, estimated at \$500 per week.

Kemble said his well water turned brown and became unusable in 2008, shortly after the gas well across the street was drilled and fracked.

At his home, he filled a large plastic container dubbed a water buffalo from the tank on the truck.

"Never had a problem before until Cabot came in," Kemble said.

Read more: <http://www.foxnews.com/us/2012/03/05/epa-heightens-scrutiny-pas-marcellus-shale/#ixzz1oGcRX32E>